

**Agenda**  
(Distributed 30 November 2016)  
**BO Conservation Measure Implementation Quarterly Meeting**  
**Four Corners Power Plant and Navajo Mine Energy Project**  
**Consultation # 02ENNM00-2014-F-0064**

December 6, 2016  
In Person Meeting at:  
USFWS Ecological Services Field Office  
2105 Osuna Road NE, Albuquerque, NM 87113-1001

Call in PSD line 2: 866-706-0642

Leader Code: 26-33-522

Participant Code: 15-71-381

| Tuesday, Dec 6, 2016<br>8:30 am to 12:15 pm  |  |        |          |
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| Topic  | Who  | Length | End Time |
| Meeting Opening – Roll Call and Introductions  | Everyone; led by Alex Birchfield, OSMRE  | 5 min  | 8:35     |
| Brief Overview Discussion of Lawsuit   | Art Kleven, DOI SOL<br><i>(Agency personnel only discussion after this meeting if requested).</i>  | 10 min | 8:45     |
| Brief Overview of SJRIP Proposal to Defund Non-Native Removal Conservation Measure   | Alex Birchfield, OSMRE and Art Kleven, DOI SOL<br><i>(Agency personnel only discussion after this meeting if requested).</i>   | 10 min | 8:55     |
| RPM 1a: Consultation on Hg deposition - OSMRE will evaluate and consult with the USFWS on all permitting actions with the potential to deposit Hg in the San Juan River. Evaluation and Consultation to occur every 2 years. | OSMRE, USFWS<br><br>Alex can give a brief overview of proposed NGS-KMC BA Conservation Measures if requested (see attachment).<br><br><b>OSMRE needs clarification on what is meant &amp; when the next Consultation on this is due (i.e. when is the first 2 year consultation requirement? - From FCPP-NMEP ROD signing or NGS-KMC Consultation conclusion?, etc?)</b> | 5 min  | 9:00     |

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| <p>RPM 1b: Razorback Sucker Selenium Effects Study - <u>BIA has obligated funding for a study to determine what level of selenium causes adverse impacts to Razorback suckers in the San Juan Basin.</u> USGS was awarded the contract. Harrilene has been working on an interagency agreement. <u>The SOW has been finalized.</u> The USFWS recommended, and all agreed to a delay as explained at the last meeting (see minutes).</p>   | <p>BIA &amp; USFWS</p> <p><b>Harrilene – update on status of interagency agreement and the BIA letter to USFWS (Sharon Whitmore).</b> Otherwise, no need to discuss unless there is interest due to delay as explained in the Aug 2016 minutes.</p>  | <p>5 min</p>  | <p>9:05</p> |
| <p>RPM 3: Project Proponents will develop and implement a Non-native Species Escapement Prevention Plan, which will include the following measures to minimize: (a) the risk of non-native species (plants, invertebrates, and fish) that inhabit Morgan Lake invading San Juan River; and (b) the introduction of additional nonnative species into Morgan Lake.</p> <p>a. Project Proponents will develop and disseminate public education materials regarding the threat of non-native species targeted to recreational users of Morgan Lake. The materials will recommend practices to prevent the introduction of new nonnative species to Morgan Lake or the transfer of existing nonnative species from Morgan Lake to the San Juan River.</p> <p>b. Project Proponents will install and operate a device designed to prevent the transfer of nonnative fish species from Morgan Lake to the San Juan River.</p> <p><b>Assist APS with the USACE Section 404 permitting for the fish trap.</b></p> | <p>Project Proponents, NNDFW, USFWS</p> <p><b>Status update needed:</b><br/>Previously Richard provided 2 documents related to non-native escapement education for discussion. Scott responded on 16 Aug 16 indicating the sign already placed at the Morgan Lake boat ramp is adequate; and offered comments on the draft educational brochure.</p> <p><b>Morgan Lake non-native fish escapement prevention device (“fish trap”) update by APS - Richard Grimes</b> – after the 4 May 16 receipt of the fish species list APS began engineering.</p> <p><b>USFWS (Scott) – Begin once fish trap designed is agreed upon</b></p> | <p>30 min</p> | <p>9:35</p> |

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| <p>RPM 4: Proponent funding for Recovery Actions - Project Proponents shall fund implementation of Recovery Actions (See BO Tables 1 &amp; 12) to continue working towards endangered fish survival and recovery in the San Juan River Basin &amp; create, maintain, or improve habitat for Colorado Pikeminnow and Razorback Sucker through the SJRIP.</p> <p>Funding will be provided to the SJRIP through the National Fish and Wildlife Foundation (NFWF) on an initial one time and annual basis. Annual funding will be subject to annual adjustments determined by the Consumer Price Index (CPI).</p> <p>Funding will be managed and administered by the SJRIP Program Office according to the terms and conditions set forth in a contract with NFWF which shall conform to the obligations of the BO.</p> <p>The recovery actions include: propagation of endangered fish; non-native species removal; fish habitat protection, management, augmentation, &amp; monitoring; partial funding of APS Weir fish passage; Hg &amp; Se monitoring in endangered fish or surrogates; Hg studies in CPM; contribute towards a SJRIP staff biologists; Navajo Dam Temp Modification Feasibility Study.</p> <p>The construction of a fish passage at the APS Weir, and monitoring of Hg and Se in endangered fish, among others (see BO Tables 1 &amp; 12).</p> <p><b>USFWS to provide OSMRE semiannual accounting statements regarding the funds associated with Table 12 - June and December of each year upon receipt from SJRIP.</b></p> <p><b>Provide annual progress reports for each item in Table 12.</b></p> | <p>Proponents &amp; USFWS</p> <p><b>USFWS to introduce Nate Franssen who was hired using Table 12 funds.</b></p> <p><i>L&gt; Biologist<br/>Recovery Program<br/>&amp; also work with OSMRE.</i></p> <p><i>San Juan River - worked on as post-doc fellow</i></p> <p><i>Sharon - will hand over to Nate &amp; Scott</i></p> <p><del>Sharon</del></p> <p>USFWS must contact APS before the fish passage at the APS Weir is installed. <b>USFWS provide a status update.</b></p> <p>Allocation of funding is shown in the DRAFT FY 2017 Annual Budget and Work Plan for the SJRIP sent out on 8Jul16. The SJRIP CC meets by telecon on 12 Dec 16. <b>USFWS to lead this discussion.</b></p> <p>USFWS (Scott) - Upon receipt - expected in February (@SJRIP Bio Cmte Mtg) and May (@SJRIP Coordination Mtg)</p> | <p>10 min</p> | <p>9:45</p> |
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RPM 5: Development of Guidelines for review of NPDES permits - OSMRE will work with USEPA and the Project Proponents to develop comprehensive guidelines and criteria for ESA review of future USEPA-issued NPDES permits for the Project.

OSMRE will work with USEPA and the Project Proponents to minimize the effects of the Proposed Action on Colorado pikeminnow, razorback sucker, southwestern willow flycatcher, or yellow-billed cuckoo, by coordinating with the Service in developing the analytical methods and conduct an analysis of duration, magnitude, concentration and contribution of discharges associated with NPDES permitting actions that will be used to conduct ESA review prior to development of future USEPA-issued NPDES permits for the Project.

a. In developing methods to evaluate the potential for effects of the future NPDES permits for the Project, OSMRE will coordinate with USEPA and the Project Proponents to identify how available water column and fish tissue Hg and Se data, including data collected as part of the monitoring program funded in Conservation Measure 7, will be evaluated to ensure protection of listed species and their suitable habitats.

b. OSMRE will work with USEPA and the Project Proponents to ensure that Se and Hg water column data collected pursuant to NPDES permit requirements will be analyzed using test methods that are sufficiently sensitive to enable measurement below the applicable water quality standards or associated review thresholds for purposes of evaluating reasonable potential effects and setting water quality based effluent limitations, if required. For example, we will require use of method 1631 or any similarly sensitive method to conduct Hg monitoring under the NPDES permits.

OSMRE, EPA, and Project Proponents

**EPA (Gary) will provide any updates for this RPM.**

*Both the FCPP & Navajo Mine NPDES permits were public noticed & received extensive comments which are part of the public record for permits. EPA is now considering comments & will prepare a Final Response to Comments document which will accompany the issuance of the final permits (which last for 5 years and the renewals of which are currently overdue). EPA plans to include the use of sufficiently sensitive methods to monitor for Se and Hg in these permits which it expects to issue in late 2016. This addresses the Terms and Conditions, RPM 5(f).*

*Regarding the Terms and Conditions, elements (a) through (e) – these will be implemented during the next permit cycle (about 5 years out ~ 2021).*

a. USEPA will consider how the effluent limits, if any, are expressed in the NPDES permit and evaluate whether a water column translation to an endangered fish tissue guideline concentration is available at the time of permit issuance. USEPA will consider guidance and scientific information available at the time of permit issuance in selecting an appropriate method for translating fish tissue guidelines to water column values used to evaluate reasonable potential effects and calculate effluent limitations if needed.

b. In evaluating potential effects of NPDES discharges in future permitting actions for the Project, USEPA will use the Navajo Nation's fish tissue criterion of methylmercury in fish of 0.3 mg/kg wet weight and the USEPA (2014) draft freshwater selenium ambient chronic water quality criterion for protection of aquatic life of 15.2 mg/kg dry weight in fish egg/ovaries (or water column equivalent), or other appropriate and scientifically defensible values, for purposes of evaluating the relationship between water discharges and potential species effects. As necessary these current endangered fish tissue evaluation thresholds may be modified to reflect new information, monitoring data, and in coordination with the Service.

5 min

9:50

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RPM 5 Continued:

c. Pending completion of the coordination steps identified in RPM 5.a. above, customary ESA review will occur for future proposed NPDES permit or renewal for the Project.

c. USEPA will, in association with future NPDES permitting actions for the Project, provide an analysis of the duration, magnitude, concentration and contribution of the flows in the vicinity downstream from the NPDES permitted discharges to clarify the potential contribution of such flows to the overall impacts from Hg and Se to threatened and endangered species and critical habitat in the project area.

d. If the fish tissue guideline of Hg or Se in the receiving water is below and not close to the endangered fish tissue guidelines, depending on the particular facts, the permitting authority may reasonably conclude that the discharge does not have reasonable potential, but tier 2 antidegradation provisions should be considered.

e. If the review of available Hg and Se data collected in the vicinity downstream from the NPDES permitted discharges indicates that permitted discharges cause or contribute to exceedances of applicable water quality standards, as evaluated based on the best available water column, translator, and fish tissue threshold values, water quality based effluent limitations will be included in the NPDES permit.

f. NPDES permits shall contain a special condition requiring the permittee to monitor effluents for Se and Hg using a sufficiently sensitive EPA-approved method. The selection of a sufficiently sensitive method relates method quantitation levels to the water column criterion value. If a water column criterion or a water column translation of an endangered fish tissue guideline is not available to allow for selecting an alternate sufficiently sensitive method, use of the most recent approved version of method 1631, where feasible, to characterize effluent discharges will be required. The frequency of such monitoring shall be quarterly or once per discharge in the case of intermittent discharge for a sufficient period of time to accurately assess the long-term concentration levels of Se and Hg in the effluent regulated under the NPDES permits.

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| <p>RPM 7: Surveys for Southwestern Willow Flycatchers (SWWF) and Yellow-billed Cuckoo (YBC) - Project Proponents shall conduct protocol surveys for SWWF and YBC within at least 85 acres of the Deposition Area and within at least one optimal location of suitable flycatcher habitat on the Navajo Mine Lease Area during the spring migration period from 2016-2042.</p> <p>OSMRE will coordinate the provision of data and an annual report to the Service at a frequency that is specifically identified by the RPMs on implementation of the proposed action, and their implementing terms and conditions.</p> <p><b>Keep OSMRE abreast of activities leading up to SWWF &amp; YBC surveys</b></p>  | <p>Proponents, USFWS and OSMRE.</p> <p><i>Navajo mine.</i><br/><i>negative finding at all</i><br/><i>5 surveys -</i></p> <p><i>APS FCPP.</i><br/><i>Survey done to</i><br/><i>USFWS migratory</i><br/><i>birds (no nesting)</i><br/><i>tho' did detect <del>SWWF</del> YBC</i><br/><i>&amp; SWWF</i></p> <p>Surveys have been conducted. APS (Richard) and NTEC (Clark via Vivie or Trevor) will provide an update.</p>  | 10 min | 10:00 |
| <p>Terms &amp; Conditions #8 - OSMRE shall prepare and submit a report summarizing the status of all RPMs, and the Terms and Conditions and any additional data or relevant information to the Service's NMESFO annually, no later than May 30 for the previous calendar year's activities. Ensuring the Service receives electronic copies of all reports and plans related to implementation of the RPMs and terms and conditions. From Reporting Requirements (pg 156): Documentation and reporting on the implementation of the RPMs and terms and conditions will occur within 1 year following the completion of the Record of Decision for the Project and annually thereafter for a period of up to twenty five years or until the Project ceases operation.</p> <p><b>Reporting requirements and deadlines to OSMRE as part of the Terms and Conditions (8) appear to need to be established.</b></p> <p><b>Provide annual progress reports for each item in Table 12.</b></p> | <p>OSMRE &amp; USFWS</p> <p><b>Would the USFWS find acceptable a status summary from BIA &amp; EPA to OSMRE to be sufficient for the reporting on RPMs 1a and 5, respectively? And/or would a summary from the Quarterly meeting minutes be sufficient?</b></p> <p><b>Does OSMRE need to prepare a report for RMP 1a - We need to discuss what that looks like from OSMRE to USFWS in meeting OSMRE's reporting requirements.</b></p> <p>USFWS (Scott) - Upon receipt - expected in February (@ SJRIP Bio Cmte Mtg) and May (@ SJRIP Coordination Mtg)</p> | 15 min | 10:15 |
| <p>Motion to accept as Final the telecon meeting minutes from 3 May 2016.</p>   | <p>Alex</p>  | 5      | 10:20 |

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| <p>Call for final comments to Draft Meeting minutes from 2 Aug 2016 telecon meeting sent out with this Agenda on 30 Nov 16.</p> <p>If everyone has had time to review &amp; there are no objections then a motion to accept as final will be made.</p>   | Alex   | 5      | 10:25 |
| <b>Decide on next meeting date, location, &amp; format (in person or telecon).</b>   | Keeping in mind: APS's reporting deadline to OSMRE of 15 Feb 17; and NTEC's reporting deadline to OSMRE as part of their annual report NLT 2 Mar 17. OSMRE's Comprehensive Reporting Requirements to USFWS is 30 May 2017.   | 5      | 10:30 |
| <b>Break</b>   |  | 10     | 10:40 |
| <p>RPM 2: Pumping Plan - Project Proponents will develop and implement a pumping plan to reduce the magnitude and types of entrainment of Colorado Pikeminnow and Razorback Sucker. The plan will optimize avoidance of entrainment of larvae and impingement of larger fishes through measures that are deemed feasible without altering the current operating configuration at the river pump station. Plan will be implemented within 2 years of the issuance of the Record of Decision. <i>(i.e. by 15 Jul 2017)</i>.</p> <p>Richard previously presented conceptual pumping plan and got general agreement on pump outages at key times.</p> <p><b>Engineering was conducted to:</b></p> <ul style="list-style-type: none"> <li>• Evaluate feasibility of connecting sumps to reduce intake screen velocity</li> <li>• Test smaller mesh intake screen</li> <li>• Determine frequency of 1 vs 2 pump operation</li> </ul> <p>Notify APS and OSMRE when RBS &amp; CPM are spawning above the APS pumps.</p> <p>Work together regarding a pumping plan during RBS &amp; CPM spawning above APS pumps.</p> | <p>Project Proponents (with OSMRE oversight and USFWS approval).</p> <p>Very brief status overview to entire group by APS (Richard) on the San Juan River Pumping Plan. There will be a breakout discussion at end of meeting to go over this in detail for those interested including OSMRE, USFWS and EPA.</p> <p>USFWS (Scott Durst) – Upon Spawning Confirmation</p> <p>USFWS (Dave, Sharon, Scott and Richard) – BEFORE Spawning Confirmation</p> | 60 min | 11:40 |

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| <p><b>RPM 6: Spill Contingency Countermeasures Plan - Project</b><br/> Proponents shall provide a plan and all necessary equipment, training, and materials to address the potential impacts of ash pond failures on suitable habitat for endangered species. Table top drill every 10 years.</p> <p>APS (Richard) delivered a draft to OSMRE and USFWS at the 23Feb15 SJRIP Bio Cmte meeting requesting feedback; including examples of spill-clean up plans.</p> <p>EPA (Gary) provided a spill clean-up plan example on 2May16. The USFWS reported examples they had were similar and did not address clean up.</p> | <p><b>Proponents and USFWS</b></p> <p>APS (Richard) will walk us through his Ash impoundment Spill Contingency Countermeasures Plan.</p> <p>The current (Emergency Response Plan - ERP) in place was approved by the NM State Dam Engineer and approved as protective.</p> <p>Richard has previously indicated that they will be reviewing the current ERP in 2017 in light of the new national CCR rule requirements (EPA). Richard is also looking into the applicability of this in relation to this RPM and the timeline of the CCR and will update us on the applicability as well as any modifications to the ERP to comply with the new requirements as it develops.</p> | <p>30 min</p> | <p>12:10</p> |
| <p><b>Meeting Close</b></p>  |   | <p>5</p>      | <p>12:15</p> |
| <p>Agency personnel only discussion of lawsuit if needed? TBD</p>  | <p>Agency personnel only – resume if needed/desired after meeting close; or schedule for another time?</p>  | <p>?</p>      | <p>?</p>     |
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## Action Items

[illegible]